IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 3555 of 2005

Between:

1 Cherukuri Sambasiva Rao, s/o Subba Rao,
r/o Jamalapuram, Yerrupalem Mandal, Khammam District.
2 Cherukuri Mallikarjuna Rao, s/o Subba Rao,
r/o Jamalpuram, Yerrupalem Mandal, Khammam District
3 Cherukuri Chittibabu, s/o Subba Rao,
r/o Jamalpuram, Yerrupalem Mandal, Khammam District.

..... PETITIONER(S)

AND

1 Bank of India, Governorpet Branch, rep., by its Manager, 1st Floor, Sridevi Complex, J.D.Hospital Road, Vijayawada-520 002.
2 The Recovery Officer, Debt Recovery Tribunal, at Isnar Khazana Towers, 3rd Floor, 2nd Lane, Dwarakanagar, Visakhapatnam-
530 016.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue appropriate writ or order or orders and more particularly in the nature of writ of mandamus declaring that the acts, deeds and things of the 1st respondent in putting our properties for public auction in pursuance of proclamation of sale in R.P.No.86 of 2003 in O.A.No.869 of 2002, dated 21-12-2004 on the file of the Debt Recovery tribunal, Visakhapatnam wherein the properties of the petitioners have been shown by the 2nd respondent are illegal, arbitrary, against to the principles of natural

justice, abusive of process of law and much against to the legal and fundamental rights guaranteed under the Constitution of India and consequently direct the respondents not to interfere with the properties of the petitioners and to pass such other order or orders as deem fit and proper in the circumstances of the case and in the interest of justice as otherwise, the petitioners shall be put to grave and inexplicable hardship and injury.

Counsel for the Petitioners:MR.PALIVELASATYARAJA BABU

Counsel for the Respondents: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

The Court, at the stage of admission, made the following :

ORDER: (Per Sri Justice B.Sudershan Reddy)

Having regard to the nature of controversy, we consider that it would be appropriate to grant leave to the writ petitioners to raise their objections before the Recovery Officer in accordance with law. They shall be duly investigated by the Recovery Officer after providing an opportunity of being heard to both the parties. In such view of the matter, it would not be appropriate to express any opinion whatsoever on any of the questions raised in this writ petition, including the question as to whether the petitioners have mortgaged this property and secured any loan from the bank. The question as to whether the properties in question can be brought to sale also can be gone into and in fact is required to be gone into by the Recovery officer in

accordance with law.

It is needless to direct that the stay of confirmation of sale shall be in operation until the Recovery officer disposes the objections to be raised by the petitioners herein. The objections shall be filed within two weeks from today. They shall be received by the Recovery Officer.

The Recovery Officer shall be entitled to go into all the questions and pass an appropriate order uninfluenced by the observations, if any, made in this order. There shall be an order accordingly.

The writ petition is accordingly disposed of without any order as to costs.

(B.SUDERSHAN REDDY,J)

Date:29.03.2005

(C.V.RAMULU, J)

Note: Office to furnish copy

by tomorrow.

(B/o.)

TS/GJ

To

1 The Manager, Bank of India, Governorpet Branch, 1st Floor, Sridevi Complex, J.D.Hospital Road, Vijayawada-520 002.
2 The Recovery Officer, Debt Recovery Tribunal, at Isnar Khazana Towers, 3rd Floor, 2nd Lane, Dwarakanagar, Visakhapatnam-
530 016.

3 2 CD copies.